SUPREME COURT, U. S.
NOV 6 1974

IN THE

Supreme Court of the United States

October Term, 1974

No. 74-549

ALLIED PILOTS ASSOCIATION,
Petitioner,

vs.

CIVIL AERONAUTICS BOARD,
Respondent,

and

AMERICAN AIRLINES, INC., *et al.*,
Intervenors.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Petitioner prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the District of Columbia Circuit entered in this action on August 8, 1974.

Opinions Below

The opinion of the Court of Appeals for the District of Columbia Circuit which is reprinted in Appendix A has not been officially reported. Order 70-7-114 of the Civil

Aeronautics Board approving the Mutual Aid Pact which is reprinted in Appendix B is not reported. Order 70-11-110 of the Civil Aeronautics Board vacating Order 70-7-114 and remanding for further evidentiary proceedings which is reprinted in Appendix C is not reported. Order 73-2-110 of the Civil Aeronautics Board approving the Mutual Aid Pact, which is reprinted in Appendix D, is not reported.

Jurisdiction

The judgment of the Court of Appeals was entered on August 8, 1974. This Court has jurisdiction to review the judgment herein by writ of certiorari under 28 U.S.C. 1254 (1).

Questions Presented

(1) Has the Civil Aeronautics Board usurped Congressional authority and exceeded its own jurisdiction by approving a Mutual Aid Pact for the purpose of altering the balance of economic power between management and labor in the airline industry?

(2) Has the Civil Aeronautics Board acted arbitrarily and in violation of the Railway Labor Act, 45 U.S.C. §151 *et seq.* by extending the operation of an industry Mutual Aid Pact to union-management relations that admittedly function on a single carrier basis?

Statutes Involved

The pertinent provisions of the Railway Labor Act, as amended (45 U.S.C. §151, *et seq.*) and the Federal Aviation Act of 1958, as amended (49 U.S.C. §1301, *et seq.*) are set out in Appendix E.

Statement of the Case

The original Mutual Aid Pact was entered into in 1958 by six air carriers: American Airlines, Inc.; Capital Airlines, Inc.; Eastern Airlines, Inc.; Pan American World Airways, Inc; Trans World Airlines, Inc.; and United Air Lines, Inc. The Pact, limited in scope, duration and benefits, provided, in essence, that in the event of certain strikes, a carrier member meeting other criteria would receive "windfall" payments from the other members measured by their increased revenue because of the strike, less added expenses. Specifically, the operation of this Pact was limited to strikes seeking settlements in excess of or opposed to Presidential Emergency Board recommendations, called before exhaustion of Railway Labor Act procedures, or "otherwise unlawful". The Pact now before the Court has no such "public interest" limitations and provides payments to its members irrespective of the "justice" or fairness of their position. The first Pact was approved by the Civil Aeronautics Board ("the CAB") after oral argument, member Minetti dissenting. *Six Carrier Mutual Aid Pact*, 29 C.A.B. 168 (1959), reconsideration denied, 30 C.A.B. 90 (1959).

In October 1959, the Pact members requested continuation of the Mutual Aid Pact from the C.A.B. Before the CAB could act, substantial amendments were made to the Pact broadening its coverage and increasing its membership. In June 1960, the CAB directed an evidentiary hearing before further approval of the Pact. Order E-15413 (1960).